

EDMONDS CITY COUNCIL APPROVED MINUTES

December 9, 2014

The Edmonds City Council meeting was called to order at 6:15 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Diane Buckshnis, Council President
Kristiana Johnson, Councilmember
Lora Petso, Councilmember
Strom Peterson, Councilmember
Joan Bloom, Councilmember
Thomas Mesaros, Councilmember

ELECTED OFFICIALS ABSENT

Adrienne Fraley-Monillas, Councilmember

STAFF PRESENT

Al Compaan, Police Chief
Phil Williams, Public Works Director
Carrie Hite, Parks & Recreation Director
Scott James, Finance Director
Shane Hope, Development Services Director
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.
Deb Anderson, Accountant
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. INTERVIEW OF TREE BOARD APPLICATIONS FOR 2 VACANCIES

At 6:15 p.m., the City Council met with three candidates for appointment to the Tree Board. The meeting took place in the Council Chambers, located in the Public Safety Complex. All Councilmembers and Mayor Earling were present.

2. CONVENE IN EXECUTIVE SESSION REGARDING REAL ESTATE PER RCW 42.30.110.1(c)

At approximately 6:30 p.m., the City Council met in executive session regarding real estate per RCW 42.30.110.1(c). The executive session was scheduled to last approximately 15 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Buckshnis, Peterson, Petso, Bloom and Mesaros. Others present were City Attorney Jeff Taraday, Parks & Recreation Director Carrie Hite and City Clerk Scott Passey. At 6:46 p.m., Mayor Earling announced to the public present in the Council Chambers that an additional 15 minutes would be required in executive session. The executive session concluded at 6:59 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:02 p.m. and led the flag salute.

3. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Councilmember Fraley-Monillas.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, TO EXCUSE COUNCILMEMBER FRALEY-MONILLAS. MOTION CARRIED (6-0-1), COUNCILMEMBER BLOOM ABSTAINED.

4. APPROVAL OF AGENDA

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

5. APPROVAL OF CONSENT AGENDA ITEMS

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 25, 2014**
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF DECEMBER 2, 2014**
- C. APPROVAL OF CLAIM CHECKS #211744 THROUGH #211872 DATED DECEMBER 4, 2014 FOR \$237,297.41 (REISSUED CHECK #211744 \$1,266.99). APPROVAL OF REISSUED PAYROLL CHECK #61383 FOR \$272.98, PAYROLL DIRECT DEPOSIT AND CHECKS #61384 THROUGH #61396 FOR \$478,775.50, BENEFIT CHECKS #61397 THROUGH #61406 AND WIRE PAYMENTS OF \$499,109.56 FOR THE PAY PERIOD NOVEMBER 16, 2014 THROUGH NOVEMBER 30, 2014**
- D. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES SUBMITTED BY ROLAND TEGMAN (\$569.89)**
- E. AUTHORIZATION FOR MAYOR TO SIGN SUPPLEMENTAL AGREEMENT WITH DAVID EVANS & ASSOCIATES FOR THE 76TH AVE. W @ 212TH ST. SW INTERSECTION IMPROVEMENTS PROJECT**
- F. REAPPOINTMENT OF DARCY MACPHERSON TO EDMONDS CITIZENS' TREE BOARD**

6. AUDIENCE COMMENTS

Tom Wilks, Edmonds, president of a technology company, offered his perspective of the Edmonds Business Improvement District (BID). Many other members of the BID are dissatisfied with the current situation; people are upset because they feel it was forced on them, it is not inclusive and the focus is on the retail and restaurants, the fees are too high and not appropriate for the problems being solved and the spending to date and the proposed spending will not provide any benefit to them. He recognized there were a lot of other people working very diligently to make the BID successful. He provided the following suggestions:

- Re-poll or survey the membership and use assessments as a mechanism for communicating
- Adjust the fee structure to place more emphasis on building ownership
- Create a class of business that is exempt as some businesses will not benefit from the BID's activities
- Propose an offset to the assessment based on a contribution to a broader City-wide cause. He would rather write a check to the General Fund than to a budget that promotes Starbucks
- Develop an a la carte pricing structure that allows businesses to participate at the level that is proportionate to the benefit they receive
- Expand the BID's boundaries across the highway to be all inclusive

He cautioned if this is not corrected, there is a good possibility Edmonds will lose businesses; it will not be the primary reason a business leaves but will be a contributing factor.

Brent Malgarin, Edmonds, recalled on November 10, 2014 in response to a question from Councilmember Petso, City Attorney Jeff Taraday said while there was a substantial effort put into collecting signatures for a petition, it was realized in course of the review of those signatures that it would not meet the legal standard for a petition. Yet Ordinance 3909 states whereas the owners and operators of businesses located within the area and representing approximately 60% or more of the assessment levied by this ordinance signed a petition in support. Those two statements are in contradiction and he pointed out a legal document cannot contain false information. He referred to RCW 98.76.175 that states, material statement means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties. He urged the Council to consider the matter, asserting the paperwork was not done legally, and suggesting the Council obtaining out counsel.

Rose Cantwell, Edmonds, representing the Senior Center, commented the trend in advertising is new this and that, new and improved. The new senior citizen whose lives has been helped and extended by social security and Medicare are living longer and many are donating their time to their communities. She was very proud of the Senior Center, pointing out the Mayor is a prime example of a senior citizen serving their community; he could surely have found a much easier job. The Senior Center building is deteriorating and needs to be replaced, a problem that has been discussed for the past 15 years. The lease agreement on tonight's agenda will allow the Senior Center to raise the funds to build a new community center. She could not think of a better use for that land that was committed to the purpose of serving senior citizens when it was sold to the City. She urged the Council to resolve the land lease so they can begin raising funds to solve this age old problem.

Don Hall, Edmonds, referred to the code of ethics for elected officials on tonight's agenda, relaying it does not include an enforcement policy, ethics board, ethics officer or mechanism to file complaint. He recalled the at July 8, 2014 Public Safety & Personnel Committee meeting, Councilmember Fraley-Monillas expressed reluctant to have an enforcement policy and if there was one, that it might be handled in executive session, a concept he disagreed with. The August 27, 2013 minutes state Councilmember Petso feared someone who did not agree with an official's position on an issue could file an ethics complaints and that she was unlikely to support a code of ethics that included a complaint process, ethics officer and enforcement. He questioned why waste the Council's or the public's time with a code of ethics that did not contain an enforcement policy, complaint procedure and would not done in the open. He referred to Bainbridge Island's code of ethics that includes an ethics board and an easy to understand complaint form. Some cities use contracted ethics officers on a complaint driven basis. Next, as a downtown retailer, he suggested giving the BID a chance to show what it can do for all of downtown. The BID was not set up to help Starbucks or any other individual retailer but to help the entire downtown generate more tax dollars and make it a better place to shop.

Ferrell Fleming, Executive Director, Senior Center, referred to Agenda Item 13, identifying the context for their proposal, 1) the 47 years partnership between the City and Senior Center, 2) the Strategic Action Plan adopted in 2013, 3) Council resolution 1313 adopted March 2014, and 4) the immediate needs of their fundraising process. The vast majority of cities in the county define providing recreational and supportive services to its older citizens as an important civic function; in most cases delivered via a senior center, usually city owned, staffed and managed. If Edmonds had to fully fund the senior Center, it would cost at least what the senior center pays and probably more; their current budget is \$650,000 and the City's share is \$60,000. The Senior Center wants to work with the City to define what the City wants with regard to use of the facility and he was certain language could be developed to provide appropriate flexibility over time. The intent is for the new building to be a community center, not just a senior center. The notes provided to the Council again raise the issue of relocating the center; resolution 1313 adopted in March 2014 has several references to the current site. The Strategic Action Plan rates updating the senior center on its current site as very high and rates relocating the senior center as very low. The seniors who use the center are passionately dedicated to this site. The question of who is responsible for the

parking lot, parking study, design and construction can be worked out as the process moves forward and could be left as a mutual responsibility. At the end of the project the Senior Center will own the building but the park will be owned by the City. If the parking lot bulkhead is pulled back, the walkway connected going south, green space on the water's edge increased, he was confident the City could identify considerable grant money. Their application for State capital funds, a development grant from the Hazel Miller Foundation and large donations from individual donors all require appropriate site control which a mutually agreed upon ground lease and signed option release would provide.

Dave Page, Edmonds, commented the Senior Center is interviewing someone next week to assist with the capital campaign. The capital campaign cannot go forward until the lease is agreed upon. This is a time sensitive issue; the campaign needs to start as soon as possible while enthusiasm is high. With regard to the train trench, he recalled the figure \$250 million was identified to start the project in 3 years. The project likely would not start for 5 years and the cost would increase to \$400 million. He pointed out \$400 million was City's entire budget for 10 years. He urged the City not to spend any more money on the train trench, anticipating once digging began, problems would mount. He preferred to build something else for a lower amount over the top for emergency vehicles. Next, he questioned the need for a Diversity Commission, commenting Edmonds was the most diverse city in the universe where everyone is welcome.

ACTION ITEMS

7. APPOINTMENT TO FILL TWO VACANCIES ON THE EDMONDS CITIZENS' TREE BOARD

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO APPROVE THE APPOINTMENT OF RONALD BRIGHTMAN AND BARBARA DURR. MOTION CARRIED UNANIMOUSLY.

8. REPORT ON FINAL CONSTRUCTION COST FOR THE 5TH AVENUE OVERLAY PROJECT AND PROJECT ACCEPTANCE

Public Works Director Phil Williams commented this is a normal close out for the Council to accept the paving and ramps on 5th Avenue. The project was largely completed last year; closeout has taken some time due to documentation issues. The construction contract the Council approved last year was \$732,732 with a \$73,000 management reserve; the final amount spent was \$739,050, 8.3% under budget.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCIL PRESIDENT, BUCKSHNIS, TO APPROVE FINAL CONSTRUCTION COST FOR THE 5TH AVENUE OVERLAY PROJECT AND ACCEPT THE PROJECT. MOTION CARRIED UNANIMOUSLY.

9. AMENDMENT TO THE WOODWAY POLICE SERVICES CONTRACT APPROVED BY THE CITY COUNCIL ON NOVEMBER 3, 2014

Police Chief Al Compaan explained this matter was before Council at the November 3, 2014 meeting and at the September 9, 2014 Finance Committee meeting. On November 3 the Council approved the draft Woodway contract for a period of 6 months to allow time for further discussion/negotiation with Woodway. The existing contract expires December 31, 2014; the 6 month interim contract will begin January 1, 2015 and be effective through June 30, 2015 unless Council takes further action tonight.

Council President Buckshnis corrected a statement in the agenda memo; clarifying she requested the term of the contract be reconsidered.

Councilmember Bloom relayed her understanding the intent of the 6 month period was to evaluate the increase in the fee by \$60/month from \$3,000/month to \$3,060. The Council approved the contract with the 6 month term by a vote of 6-1. She was confused why this matter was being reconsidered.

Councilmember Mesaros relayed his discussion with Woodway Mayor Nichols included how the contract could be extended for a longer period of time to provide them a sense of certainty regarding services they would receive from the Edmonds Police Department. During discussions with Woodway, he suggested increasing the monthly fee as well as the term of the contract. Woodway Mayor Nichols was not willing to accept that and wanted to return to a three year contract. The intent of the six month interim contract was to allow those conversations to continue.

Councilmember Petso relayed her understanding additional data would be collected and provided to Councilmember Fraley-Monillas during the six months. She asked whether taking this action tonight would abdicate that commitment. Councilmember Mesaros recalled Councilmember Fraley-Monillas wanted more information but he did not recall a commitment was made. Councilmember Petso relayed her understanding was the result of the email she and Councilmember Mesaros received Friday; she will check the minutes.

Councilmember Petso relayed a question regarding the legality of a city subsidizing another jurisdiction's operations. City Attorney Jeff Taraday answered there is a constitution prohibition related to the gifting of public funds. In his opinion this does not constitute a gifting of public funds even if it is considered a slight subsidy. The State Supreme Court has watered down what it means to gift public funds, it is nearly impossible to have something considered a gift of public funds. He suggested Chief Compaan answer whether there is a subsidy. From a strictly constitutional standpoint, he would be surprised if the court would overturn this contract as a gift of public funds.

Councilmember Petso observed the contract only allowed it to be terminated in the event of breach. She asked if there was another termination provision based on notice. Mr. Taraday offered to check the contract.

Councilmember Bloom commented this was sprung on the Council; there was a 6-1 vote to review the contract after 6 months and issues were going to be brought back to the Council for consideration including the fee assessed to Woodway.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO POSTPONE THIS UNTIL COUNCILMEMBER FRALEY-MONILLAS IS PRESENT.

Councilmember Bloom commented this is a 3 year contract; the fees are being increased only \$60/month for 18 hours of service to Woodway per day. When this was last discussed, her primary concern was the tax percentage allocated was much lower for Woodway residents than Edmonds residents. The amount the City receives from Woodway is not enough to hire even one additional officer; the City needs to hire a crime prevention team that was eliminated when cuts were made. She summarized this was not a wise financial decision and more time was needed to determine whether the fee could reasonably be increased. She recalled Councilmember Fraley-Monillas felt very strongly about this and she was actively involved in the initial negotiation and voted against the \$3,000/month fee. She was uncomfortable making a decision without Councilmember Fraley-Monillas at the meeting.

Councilmember Mesaros referred to Councilmember Bloom's indication the City provided 18 hours of service per day to Woodway. Chief Compaan clarified Woodway provides their own police services 8-9 hours per day and via this contract Edmonds provides the balance in the form of response to Priority 1 and 2 calls. Councilmember Bloom observed Edmonds provides approximately 16 hours of service per

day to Woodway. She reiterated the percentage of tax is much lower for Woodway residents than Edmonds residents.

Councilmember Mesaros clarified the 16 hours of service provided to Woodway is not same as Edmonds Police provides to Edmonds residents. Chief Compaan answered it is not the same extent as far as providing visible patrol; Edmonds Police respond to Priority 1 and 2 calls to 911.

Council President Buckshnis commented this is the same argument the Council has had in the past. Councilmember Fraley-Monillas expressed her concern and the minutes do not indicate that she required additional information. Although some people think Edmonds should force full-time service on Woodway, this contract is only for part-time, on-call, Priority 1 and 2 service to Woodway. Due diligence has been done with Chief Compaan, Finance Director Scott James, Mayor Nichols, Mayor Earling and the Finance Committee and sufficient information provided to Councilmember Mesaros to negotiate with Woodway.

In response to Councilmember Petso's earlier question, Mr. Taraday relayed the contract can be terminated without cause by the provision of 90 days written notice.

COUNCILMEMBER PETERSON CALLED FOR THE QUESTION. MOTION CARRIED UNANIMOUSLY.

UPON ROLL CALL, MOTION FAILED (2-4), COUNCILMEMBERS BLOOM AND PETSO VOTING YES; AND COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBERS JOHNSON, MESAROS AND PETERSON VOTING NO.

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO AMEND THE WOODWAY POLICE CONTRACT APPROVED BY THE CITY COUNCIL ON NOVEMBER 3, 2014, TO CHANGE THE TERM FROM A 6 MONTH TERM TO A 3 YEAR TERM.

Councilmember Petso clarified even though the contract would have a term of 3 years, it can be terminated with 90 days' notice. Mr. Taraday answered yes. He relayed his understanding of the motion was to amend the Council's earlier action with regard to the contract in Attachment 1 to Agenda Item 9. That contract contains the language that allows termination without cause upon 90 days written notice.

MOTION CARRIED (4-2), COUNCILMEMBERS BLOOM AND COUNCILMEMBER PETSO VOTING NO.

Mayor Earling declared a brief recess to allow the Council to move to the table for the study session.

STUDY ITEMS

10. PROPOSED 2015-2020 CAPITAL FACILITIES PLAN/CAPITAL IMPROVEMENT PROGRAM

Public Works Director Phil Williams commented there were differences between the submitted CIP in 2015 and the proposed budget. Although they do not necessarily have to match, due to the preference that they match, the numbers were changed so that they match including four items in Facilities.

Parks & Recreation Director Carrie Hite relayed that based on Councilmember Petso's comments, a change was made to the description of City Park Improvement on CIP page 29. There are two projects listed for City Park Revitalization, one is the revitalization itself and the other is improvements to the rest of City Park. A second change was the addition of the Veteran's Plaza to the CIP.

Mr. Williams explained this item was discussion, questions and answers with the hope of scheduling it for adoption on next week's agenda.

Councilmember Petso relayed one of her concerns was balancing the building fund budget with the CIP. She referred to an email from Mr. Williams that indicates there is an extra \$15,000 if something comes up. She suggested including that as miscellaneous in the budget book or CIP so that they balance. Mr. Williams was amenable to that change.

Councilmember Bloom relayed her strong feeling that emergency vehicle and pedestrian access needed to be separated out in the CFP/CIP, included in Comprehensive Plan and be something that is looked at immediately. Her rationale was the alternatives study, whatever is decided to study whether it is a trench, underpass, overpass, tunnel, modified Edmonds Crossing, none of those alternatives specifically address emergency vehicle and pedestrian access. The funds to study this are in 2019 and 2020, meaning nothing will be done about emergency vehicle and pedestrian access for 5 years. This is a crucial issue and the City owes it to the citizens to begin it now. She recommended this issue be included similar to the trackside warning system that includes funding for a study next year and installation in 2016. She noted the same was done for the Sunset Avenue Walkway project; funding of the study was not constrained. She summarized emergency vehicle and pedestrian access did not have to be constrained if the City believed funding could be obtained to study it.

Councilmember Bloom recalled Councilmember Petso identified 2-3 possible funding sources including the Recreation Conservation Office (RCO), Puget Sound Regional Council (PSRC) or a partnership with BNSF or Washington State Department of Transportation (WSDOT). The facility could be used as park; she referred to the Vancouver pedestrian only land bridge that was built some time ago for a cost of \$12 million. She recognized Edmonds' project would be more extensive as it would include a lane for emergency vehicle access. Two potential locations have been discussed by the community, Bell Street and Pt. Edwards down from the potential future Edmonds Crossing location to Admiral Way. One engineer in the public has discussed the possibility of the Bell Street location but no formal study has been done. She did not want to wait to address emergency vehicles in an alternatives study in 5 years and then an unknown number of years until it was constructed. When the Council takes action on the CFP/CIP, she intends to make a motion to add that project to the CFP/CIP and the Comprehensive Plan. She asked other Councilmembers to explain why they felt that was not a good idea.

Councilmember Mesaros asked if funds for an alternative study were in next year's budget. Mr. Williams answered it is not in the budget because there is no funding yet to pursue it. There are efforts underway to reach consensus in the legislature with regard to accessing State funds. He could not justify including it in the budget unless there was a good indication the funds would be available. Councilmember Mesaros observed there is an emphasis on moving the alternatives study forward. Mayor Earling agreed emergency vehicle and pedestrian access would be one of the issues considered in an alternatives analysis. Councilmember Bloom clarified she wanted to discuss separating emergency vehicle and pedestrian access from the alternatives study.

Councilmember Mesaros was unclear why that needed to be separated. Councilmember Bloom explained because of the time involved and because there could be an accident now or someone could die over there because emergency vehicles could not reach them or there could be a blockage that affects the ferries. She anticipated there may be ways to provide emergency vehicle and pedestrian access in more rapid way to provide service to the senior center, the dog park, the dive park, the residences and restaurants and to assure citizens the City is working toward finding a solution sooner rather than waiting until the ferry and railroad problems are addressed. Mr. Williams explained the description of the alternatives analysis includes waterfront access issues emphasizing and prioritizing near term solutions to providing emergency access. If that issue is separated from the alternatives analysis, he asked the amount and source of those funds. Councilmember Bloom referred to the sources cited by Councilmember Petso.

Councilmember Petso said her comment was with regard to funding options not necessarily dollar amounts. She asked how much it would cost to start looking at the possibility of a Bell or Edmonds Street overpass or near Pt. Edwards. She asked whether RCO funding could be pursued if there was a sufficient recreation component. Ms. Hite responded the recreational value add for a pedestrian walkway over the tracks would definitely qualify for RCO funding. The emergency vehicle portion would not qualify so a project that included both would likely be funded on a percentage basis. Such a pedestrian walkway may be competitive if it connected to the waterfront trail system. Mr. Williams commented an emergency vehicle overpass at Bell or Pine Street would be a really big project and considering the feasibility of building it would not be a trivial endeavor. A predesign study that would take both to a certain level of design to determine which one was the most cost effective and efficacious, and 30% design to obtain design and construction funds, would be a sizable study. Councilmember Petso asked for a dollar amount for predesign to identify options. She noted funding for a train trench which would offer a complete solution was also in the out years similar to funding for the alternative study analysis. She asked how much would be required to take a first look at emergency access, similar to the citizens' proposal for the City to take a first look at the train trench idea. Mr. Williams said he would prefer to think about it and talk with a few people before he identified an amount. He reiterated building an overpass at either location would be a sizable project.

Councilmember Petso commented the Council has not been discussing this proposal for several weeks like they have other proposals. She asked whether there was time to schedule and provide proper notice for a public hearing next week on the possible inclusion of these two items into the CFP and budget. City Clerk Scott Passey answered public hearing notice following the land use public hearing notice procedure which provides ten days' notice; two weeks lead time is required to place the notice. Councilmember Petso asked whether there was a requirement that the budget and CFP/CIP have ten days' notice. Mr. Passey answered yes for the budget which was done earlier this year.

Councilmember Mesaros asked whether a public hearing would be required to make this change to the CFP/CIP. Mr. Passey answered there was not a legal requirement; it was optional if the Council wanted to notice a public hearing.

Council President Buckshnis commented she looks at this from regional standpoint. She questioned whether a separate emergency vehicle and pedestrian access would compete with the alternatives analysis. Mr. Williams anticipated there would be confusion; recent conversations with legislators have been in regard to a comprehensive solution. He acknowledged there may not be one single capital project to solve all the issues and there could be independent projects as a result of the alternatives analysis. The outcome of the study is unknown until it is conducted. If the intent is a flyover at Bell or Pine for the purpose of getting emergency vehicles across and possibly pedestrians but would not provide any automobile traffic or do anything to help the Washington State Ferry (WSF), it would be immensely difficult to fund even with a concept. Council President Buckshnis envisioned the projects would compete with each other for funding. The top priority for the alternatives study is waterfront access with emphasis on prioritizing near term solutions to provide emergency access. Mr. Williams commented pursuing grant funds for any CIP project is a very competitive process. Adding confusion and potential overlapping concepts would require explanation.

Councilmember Bloom said she understood it would require explanation. Her concern was including something in the CFP/CIP and the Comprehensive Plan that focuses specifically on emergency vehicle and pedestrian access is long overdue and she was concerned with continuing to delay it. Delaying emergency access was a disservice to any citizen who crosses the tracks and could potentially be subject to a train breakdown, heart attack, accident, derailment, explosion, etc. She questioned the purpose of waiting any longer and reiterated the need to address emergency vehicle and pedestrian access separately; resolving the ferry at-grade crossing issue is different than emergency vehicle and pedestrian access, they

do not have to be addressed together. She preferred to focus on the two options that have been proposed sooner rather than later. She was stunned to learn emergency vehicle and pedestrian access was not on any of the City's plans. The only thing in Edmonds Crossing was an elevator which would not help if there was any serious blockage or disaster.

Council President Buckshnis expressed concern with separating emergency vehicle and pedestrian access; if the legislature develops a transportation package, they will look at Edmonds' transportation problem in its entirety. If the emergency vehicle and pedestrian access was a separate project, the City may be required to fund themselves and it will not be inexpensive. She reiterated the description of the alternatives analysis clearly states as number 1, waterfront access issue emphasizing and prioritizing near term solutions. In the State's tight budget, that includes a \$1 billion deficit, everyone needs to be on the same page. Edmonds is unique because there is not only pedestrian safety but also the at-grade crossing and ferry access on a State highway. The City should be at the top of the list for getting this done because it really needs to be done sooner rather than later.

Councilmember Bloom agreed but pointed out funds for the alternatives study is not on the CIP/CFP until 2019/2020. Council President Buckshnis suggested it could be moved up. Mr. Williams explained the City is requesting the money now; it is not in the first 3 years of the CIP because there is not a reasonable expectation or any indication from a funding source that the funds will be available. There is no guarantee that funding request will be success in this legislative session.

Mayor Earling commented he understood Councilmember Bloom's concern. He recalled language was added last year regarding the emergency vehicle and pedestrian access and it was first in the priority list in response to Councilmember Bloom's concern. Considerable work has been done to advance the idea of an alternatives analysis and there has been some preliminary success. He feared the creation of dueling projects would cause problems in getting anything out of the legislature for either project and he feared it would be difficult to find adequate funding if the focus was only on emergency vehicle and pedestrian access. Although some funds may be available via an RCO grant, there are other projects for which staff would like to obtain grants. Further, much of PSRC's money is federal funds and since the recession, there is a huge list of priorities in the region and for the State to fund. He did not want to jeopardize the bigger picture, long term solution that would address the issues Councilmember Bloom is concerned about. He summarized identifying funding for a separate project would be difficult and he feared requesting two projects would create more problems.

Councilmember Petso referred to Mayor Earling's comment that the bigger solution would address Councilmember Bloom's concerns; it was her understanding several of the other solutions to the train issues do not address emergency access. For example the Edmonds Crossing project did not have a provision for emergency access and she has been told WSF is adverse to permitting emergency access in conjunction with its facility for security reasons. She questioned whether that was misinformation. Mayor Earling answered probably not, but it could be considered in the alternatives analysis as add-on. The cost of the Edmonds Crossing project, without emergency vehicle and pedestrian access, is in the range of \$300 million. With the numerous transportation needs statewide and in the Puget Sound area, he envisioned that putting together funding for a \$300 million project would be challenging. It is in the City's best long term interest to do a thorough analysis of potential alternatives which includes emergency vehicle and pedestrian overpass. Mayor Earling commented he has been around the block enough times to know it will be very difficult to find \$5-12 million for a standalone project.

Mr. Williams commented the guidelines in GMA suggested projects for which there is not a reasonable expectation of funding be placed in the last three years of the CIP. If the Council believes based on the effort underway that there is a reasonable expectation funding will be available a year earlier, there is nothing preventing moving it up a year. If funding is not found, the project can be moved back. He agreed a project tends to look like a higher priority when it is moved up on the CIP. He clarified there is a

general expectation in GMA regarding a reasonable expectation of funding. The City's policy in the past has been if there are design funds to pursue a project, that is considered a reasonable expectation that design and construction will follow and those projects are moved up. If there are no funds identified, the project is generally placed in the first of the last 3 years. Mr. Taraday agreed under GMA the first 6 years of the CFP is supposed to be the feasible phase of the plan; that does not necessarily mean the City has to identify the source of all the funds but there shouldn't be projects for which there is not a feasible plan.

Councilmember Bloom referred to Councilmember Petso's comment that WSF would not allow emergency vehicle access with Edmonds Crossing for security reasons, and asked whether the same would be true for an over or underpass. Mr. Williams answered he had never heard that; he was not employed by the City when Edmonds Crossing was being discussed. He assumed WSF would be supportive of emergency vehicle due to the number of people that use the ferry and the potential of the train blocking access to a ferry user with a health issue.

Councilmember Bloom reiterated her understanding that a tunnel would require two lanes each for unloading and one lane dedicated to emergency vehicle access. Mr. Williams did not envision having a dedicated lane for emergency vehicle access; it would be too expensive for the amount of use, and he did not envision two dedicated lanes in and two dedicated lanes out. The ferry would be loaded the same way is today, the same lanes are used for loading and unloading. Councilmember Bloom asked whether an alternatives study that prioritized emergency vehicle access would include a tunnel. Mr. Williams responded the tunnel could be 3 lanes instead of the 5 lanes Councilmember Bloom envisioned; it would depend on how vehicles are queued, etc.

Mayor Earling observed the Council has had a healthy discussion about this issue and he suggested Councilmember Bloom make a motion at the next meeting if she chose.

Councilmember Petso said it is still her intent to make a motion to take the term "multiuse" out of the Sunset Avenue Walkway. She has not receiving a lot of emails in support of bikes on the west side of Sunset nor do many bikes use the west side of Sunset. The road has been striped for bicycles and the walkway for pedestrian and that is how it is being used.

It was the consensus of the Council to schedule this item for action on next week's agenda.

11. CONTINUED DISCUSSION REGARDING THE 2015 PROPOSED CITY BUDGET

Finance Director Scott James referred to the list of Mayor's Preliminary Budget Book Changes that is available on the City's website. The changes will increase the ending fund balance in the General Fund by over \$580,000; General Fund expenses are reduced by \$201,000; and there is \$379,000 in revenue increases. He suggested the Council's discussion focus on changes to the budget, questions to staff and the allocation of the \$250,000. He referred to the financial challenges he has described to the Council in the past, pointing out those are serious dollar amounts that need to be addressed. The challenges include nearly \$1.2 million in ongoing costs that will need to be addressed in next year's budget. Beyond 2015, other challenges loom. When Mayor Earling developed the 2015 budget, he chose a path of caution; his budget message stated he was trying to make prudent decisions. Although Mayor Earling received requests from staff for ongoing increases, he chose a conservative path. Future costs include additional funding for the Firemen's Pension, the LEOFF Fund, and the Contingency Reserve Fund for which the Council's adopted policy is 8%-16%.

Councilmember Petso referred to Mr. James' comment that the policy for the Contingency Reserve Fund is for it to contain 8%-16%. She asked whether the Contingency Reserve Fund was above 8% but not yet at 16%. Mr. James agreed. He acknowledged the City has another reserve fund, the Risk Management

Reserve, that by policy is 2%; there has been some discussion about including that in the Contingency Reserve Fund to increase the percentage.

Council President Buckshnis asked the difference between Council Preliminary Budget Book Changes and the list of Council Allocations of \$250,000. Mr. James explained the Preliminary Budget Book Changes are suggested changes to the budget and are more of an ongoing nature with the exception of hiring a consultant to complete the develop code rewrite; the \$250,000 is the amount the Mayor identified for Council allocations for one-time costs. Council President Buckshnis suggested hiring a consultant to complete the rewrite be moved to the list of allocations from the \$250,000.

Based on Councilmember Bloom's comments, Councilmember Petso requested the train trench study and peer review be changed to \$50,000 and a new \$50,000 item, Emergency Access Preliminary Analysis, be added. She asked for details regarding what the Highway 99 Study and Planning will fund. Development Services Director Shane Hope explained \$100,000 was suggested by Councilmember Fraley-Monillas to develop a plan and some standards for Highway 99 to develop streetscape, etc. There has also been discussion regarding an additional \$75,000 for an environmental analysis that would be integrated.

Councilmember Petso asked how the \$100,000 item differs from the \$10 million streetscape project in the plan. Ms. Hope answered the \$10 million is for construction of the streetscape, not the plans and design standards. The plan would also address land uses in the vicinity, not just Highway 99 itself. Councilmember Petso asked whether it will include a parking study. Ms. Hope answered yes.

Councilmember Johnson commented it was appropriate to discuss the Planned Action EIS as it relates to planning for Highway 99. Although she has not had an opportunity to speak to Councilmember Fraley-Monillas, she has discussed a combined effort phased over several years with Ms. Hope. Given those parameters, quite a bit could be accomplished with \$100,000. However, that would require the understanding of Councilmember Fraley-Monillas. Ms. Hope commented ideally for a planned action, the planning and the environmental analysis would be done at the same time. If the entire amount was not available, the \$100,000 initial study could be conducted the first year followed by \$75,000 the next year for environmental review.

Councilmember Johnson suggested it could begin mid-year 2015 and continue into 2016 when additional budget may be available. She observed the intent was a comprehensive analysis; the question was how to slice the dollars. Ms. Hope agreed, recalling beginning in mid-2015 and taking about a year had been discussed. Councilmember Johnson asked whether \$100,000 would suffice for 2015. Ms. Hope answered yes.

Councilmember Bloom asked how long the rewrite of the development by Makers will take. Ms. Hope answered the end of November 2015. Councilmember Bloom suggested the next phase of the rewrite begin as that is concluding so there is some overlap. She asked whether that was reasonable within staff's workload, how the code rewrite relates to the Highway 99 Study and whether they could be combined to be more efficient. Ms. Hope answered Highway 99 actually needs a study and plan; it is separate from the code rewrite. While both will result in code, there needs to be a separate review although they could occur concurrently. With regard to whether the second phase of the code rewrite could begin in late 2015, Ms. Hope answered possibly; the challenge would be making that work and whether funds would be available.

Councilmember Bloom recalled her proposal was \$300,000 as that was the amount Ms. Hope indicated would be required in addition to the \$115,000 to do a complete rewrite of the development code. She asked whether it would be reasonable in 2015 to allocate \$150,000 for the code write to overlap the current effort. Ms. Hope answered the amount of work in the first phase of the code rewrite will make it challenging to do more in the first year. She recommended waiting until the 2016 budget to add more.

Councilmember Petso asked for Council feedback on, 1) the Crime Prevention Officer in the event ongoing funding can be identified for at least three years, and 2) potentially combining the Contingency Reserve and the Risk Management Reserve Funds.

Councilmember Peterson said he would support the Crime Prevention Officer if funding can be identified. With regard to combining the two reserve funds, the policy to create those two funds was recently adopted and he preferred to wait a couple of budget cycles before combining them especially with some of the higher profile litigation issues the City has been involved in as well as statewide litigation. He preferred to retain the Risk Management Reserve as a separate fund, observing that was a more transparent method.

Councilmember Mesaros echoed Councilmember Peterson's comments regarding support for an additional police officer if funds are available in the budget. As a newer member of the Council, Councilmember Mesaros followed Councilmember Peterson's lead in allowing more time before the reserve funds were combined.

Councilmember Petso observed the reserve funds have been through a couple budget cycles, recalling it was instituted during the Haines Wharf issue and the recognition that a major settlement was likely.

Councilmember Johnson requested information regarding the total cost of the Crime Prevention Officer, including salary, benefits and other items, be provided before next week's meeting.

Councilmember Bloom asked staff to comment on Decision Package 14, Public Relations Assistant. Her understanding was that position was to provide two-way communication to the public and improve ways for the public to communicate with Council. What she has seen is press releases and public relations and little on the side of improving communication online, making information available to the public, a way to respond to the public's questions or an increase in transparency. Economic Development & Community Services Director Patrick Doherty responded the City's website is currently under reconstruction; there is a short contract using 2014 dollars to revamp the website. The architecture the website is based on is out-of-date, pages cannot be added and it is no longer supported by the vendor. In fact a meeting was held today to discuss how the public interacts with staff, contacts and a City liaison. The "contact us" on the City's website currently identifies contacts by department or by issue. There is also a link to Citizen Liaison which contacts Cindi Cruz who assists with identifying a contact. The upgraded website will update that in a quick link tab at the top of the website

With regard to the work the public relations consultant, Carolyn Douglas, has been doing, Mr. Doherty explained there hasn't been the platform for her to interact with the City's website due to the need for reconstruction. Under that contract next year two new things will occur, 1) an upgraded website that would allow more interaction as well as be easier for staff to update, and 2) the Facebook page will be created pending Council approval of the social media policy next week. The Facebook page will provide information regarding achievements and accomplishments, good news, and what's happening in the City. Once those are completed, the scope of work for the public relations consultant includes many of the things Councilmember Bloom mentioned such as engaging the public; responding to the public; providing transparency; being a conduit between Council, Mayor, directors, and staff as well as interacting with the media in a proactive manner

Councilmember Bloom recalled she wanted a Council blog so people can communicate directly with Councilmembers. She did not believe that was included in the job description or the plans. She asked if there was another way for citizens to communicate; for example Mukilteo has "Ask the Mukilteo" feature that allows the public to ask questions on the website and have responses displayed on the website. She asked whether there would be a mechanism for questions and answers to be viewed on the City's website. Mr. Doherty answered that functionality, a bulletin board, does not currently exist nor was it identified in

this contract. He noted a blog would be difficult due to the Open Public Meetings Act. Councilmember Bloom said she has let go of that idea. He noted a bulletin board often contains general information and/or a running Q&A regarding large projects; many citizens have a specific question about an issue that they do not necessarily want posted. Councilmember Bloom asked whether the bulletin board could be considered in the context of this position. Mr. Doherty explained responding to questions would require the expertise of each department; the public relations consultant could be involved in the process but it was doubtful one person could respond to all questions.

Mayor Earling commented although he felt having another police office was a splendid idea, staff members were also needed in the Finance Department, on the second floor and there are other personnel needs. He noted one of the premises of the budget was to limit ongoing expenses. Although a Crime Prevention Officer was only \$110,000 - \$120,000 a year, that cost is ongoing. He requested Councilmembers talk to the Finance and Parks Departments and the second floor about their staffing needs.

Councilmember Peterson referred to Councilmember Petso's reference to fund a Crime Prevention Officer for 3 years, explaining funding for 5 years would be necessary to attract quality applicants. Councilmember Petso said 3 years was her commitment to Chief Compaan that he would not be hiring someone that would immediately be terminated.

Councilmember Mesaros asked whether the City had considered an ideal staffing pattern for all departments to provide a better understanding of total staffing when a position is requested. Mayor Earling said each department could be asked to provide a list. Council President Buckshnis commented that was one of the things that would be done if the City ever moved to Budgeting By Priorities. She was hopeful the budget and CFP/CIP will be approved at next week's meeting and encouraged Councilmembers to contact directors, her or Mayor Earling with any questions.

Mayor Earling declared a brief recess.

12. PUBLIC DEFENDER SERVICES DISCUSSION

Parks & Recreation/Human Resources Reporting Director Carrie Hite referred to a memo in the Council packet regarding the new guidelines for public defender services in Washington and the most recent court ruling against the cities of Burlington and Mt. Vernon. This proposal is the result of several discussions with the City Attorney and places the City in a good position to offer public defense services for indigent defendants according to State's guidelines. She reviewed staff's recommendations.

1. *Authorize the Mayor to sign a new contract with Feldman and Lee for 2015*

The City is current under contract with Feldman and Lee for 2014. An RFQ was not prepared for 2015 awaiting the court ruling. She noted no one has been overseeing the public defender contract; it is a capacity issue as well as a question of who is responsible, whether it is the Court, the City Attorney, or Human Resources. When the Council approved an amendment to the Feldman and Lee contract in April, the City Attorney recommended that be considered as well as an RFQ process instituted for public defense services. As there is not an RFQ process underway, staff recommends securing the services of Feldman and Lee until someone is hired to assist with the RFQ process. Although the recommendation is for a six month contract with Feldman and Lee, they expressed a preference for a one year contract. If Council direction is to enter into a six month contract, that will need to be negotiated with Feldman and Lee.

3. *Adopt a budget amendment for 2014 in the amount of \$66,000 to cover the contract the Council adopted in March 2014*

4. *Add an allocation to the 2015 budget for the public defender in the amount of \$70,000 due to the caseload requirements adopted by the State.*

5. *Add a placeholder in the budget of \$25,000 for a public defense supervisor, pending a recommendation by Eileen Farley (attorney who worked with Burlington and Mt. Vernon) regarding how the City can satisfy the requirements of the court ruling.*

Funds in the 2014 professional services budget are being used to pay Ms. Farley to draft an RFQ and analyze the City's public defense system and services and make a recommendation. Many cities and counties are struggling to meet the mandated requirements without any funding and are adding part-time and full-time positions to oversee public defense services. She did not think Edmonds needed to do that but she wanted Ms. Farley to provide a recommendation.

Mr. Taraday clarified some mechanism for ongoing supervision of the public defender is needed but it does not necessarily need to be a half-time permanent City employee.

Councilmember Mesaros suggested adding an evaluation process for the public defender's services to Item 5. He asked the term of the contract with Feldman and Lee prior to the most recent contract. Mr. Taraday answered Feldman and Lee have been the City's public defender for decades and have been on an approximately four year contract cycle. The most recent contract that ends December 31, 2014 was approximately a nine month contract due to the caseload requirement issue. Councilmember Mesaros asked the approximate monthly caseload. Ms. Hite recalled 450-550 including traffic infractions. Mr. Taraday clarified those do not all require a public defender. Councilmember Mesaros asked the percentage of cases that utilize the services of a public defender. Mr. Taraday's vague recollection was the indigent defense cases generated by Edmonds would be approximately 700/year. He recalled Feldman and Lee's indication they would need two full-time attorneys to staff Edmonds.

Councilmember Mesaros asked whether the contract extension could be 8 months instead of 6 or 12. Ms. Hite answered a different term could be negotiated with Feldman and Lee. Mr. Taraday relayed Feldman and Lee was interested in a one year contract; he was unsure how much of their argument was leverage and how much was a legitimate, logistical staffing concern. He asked Feldman and Lee whether they would be willing to sign a six month extension and their answer was that would be difficult but they would do a one year extension. Depending on tonight's discussion, he can approach Feldman and Lee again but he felt a six month extension would be more difficult.

Councilmember Peterson commented another consideration with a six month extension is the City will have a new judge which will be chaotic enough without changing public defenders. He suggested a one year extension to not add an extra element of chaos would serve everyone well. Although an RFP may be drafted within six months, he preferred to provide a cushion to ensure the RFP was done correctly as well as addressed the changes instituted by the court.

Councilmember Petso requested Ms. Hite ensure the Finance Director incorporated this increase in his budget projections. Ms. Hite agreed to relay that information to him.

It was the consensus of the Council to schedule this item on next week's Consent Agenda with a one year extension in Feldman and Lee's contract.

13. SENIOR CENTER LEASE DISCUSSION

Parks & Recreation Director Carrie Hite explained this is a proposed ground lease for the Senior Center. She recalled the Council unanimously passed a resolution on March 18, 2014 supporting the rebuild of the Edmonds Senior Center at its current location. On October 21, 2014 the Council unanimously approved having staff negotiate a ground lease with the Senior Center so that a capital campaign could be launched. The Senior Center has provided a draft ground lease as well as an option to lease. She explained the Senior Center is currently located in a City-owned building; the option to lease gives them control of the land so that they can launch a capital campaign. The option to lease provides the Senior Center the

option to lease the ground for a term of 55 years with extensions. The lease identifies the terms of the agreement when they actually break ground on the new center.

The City Attorney, Public Works Department and she have thoroughly agreed the documents. She reviewed questions that have been raised.

1. *Cost of the lease.*

Ms. Hite recommended skipping this item for now.

2. *Does the Council intend to allow the Senior Center to build on the existing site?*

The agenda memo includes questions posed by the City Attorney regarding whether this is the optimal location for the Senior Center, does the Council want to consider development of a Senior Center at a different location or reaffirm the resolution approved this spring.

Councilmember Mesaros commented although the Council should be open to considering location options, there is a historical precedent for keeping it at its present location. The strategy for a community center that many more citizens will be able to use it makes it an ideal location.

Councilmember Bloom recommended the Council honor the resolution that was unanimously approved and support the Senior Center at its current location. To be questioning the location of the Senior Center at this point would be unfortunate timing as they are ready to launch their capital campaign.

Councilmember Johnson commented in the event emergency access is not provided, it would be prudent to give consideration to alternatives for providing emergency services to the people who potentially will be isolated from medical services.

Council President Buckshnis commented Dr. Hickman is on staff at the Senior Center. She expressed support for the resolution previously approved by the Council.

3. *Assuming the current location is the best location, the Senior Center will need to follow land use codes in designing and constructing the building. Are the City's land use regulations enough or does the Council wish to include something in the lease that would allow the City to be involved in the site plan such as where the building is located on the site, how park redevelopment occurs, etc.*

This can be negotiated into the lease or the City can have legislative discretion to approve or reject the proposed site plan once one is prepared.

Councilmember Petso requested either it be stated in the lease or that the City have the legislative discretion to approve or reject to ensure any approval addresses the needs of the community and the senior center. She did not want to leave that up to the development code. Ms. Hite relayed the Senior Center envisions a very collaborative process.

Councilmember Peterson suggested minimizing Council guidance as the Senior Center goes through their process; he preferred Council be involved at a specific percentage of design. Ms. Hite suggested identifying a public process in the lease.

4. *Does the City want to take on the responsibility of the parking lot study, design, and construction?*

The parking lot is part of the development around the senior center as well as the park plan which is separate from the parking lot. She recommended the City take responsibility for the park land and redevelopment around the Senior Center.

For Councilmember Peterson, Ms. Hite advised responsibility meant financial, design, parking lot study and construction. Councilmember Peterson observed the parking lot is shared with beach users, envisioning there could be a negotiated amount of parking for the center and beach users and the

Senior Center and the City could be responsible for a percentage of the design and construction costs. He suggested the lease indicate the parking lot would be a shared expense. He was hopeful the contracts for the building, parking lot and park could be coordinated.

Councilmember Mesaros asked what was the alternative to the City accepting responsibility. Ms. Hite answered the Senior Center would be responsible. Councilmember Mesaros suggested including public access to parking in the lease agreement.

Councilmember Petso was okay with the parking lot being the City's responsibility as long as it was within the City's control. She could accept shared responsibility but feared control issues may arise.

Councilmember Mesaros found a shared responsibility acceptable; a percentage that was fair to the Community Center as well as the public.

Councilmember Peterson commented the ideal would be the parking spaces would be designated for the Community Center during certain hours.

City Attorney Jeff Taraday explained the City's land use code will dictate a minimum number of parking spaces for the center and may do the same for the park.

Councilmember Mesaros commented that may solve the ratio question. Mr. Taraday envisioned once the square footage of the building is determined, the code will require a certain number of parking spaces to serve the building.

5. *Should the City require a performance bond or similar security?*

Councilmember Mesaros was not supportive of a performance bond or similar security unless someone could provide a compelling reason. He commented the City and Senior Center were acting in good faith and the Senior Center is taking on a fundraising campaign to provide a new building.

Mr. Taraday provided a hypothetical concern, what happens if the senior center started construction on the building and could not complete it for some reason, leaving an unfinished building. Councilmember Mesaros commented a performance bond seemed punitive. Mr. Taraday explained it was required of all subdivisions. Mayor Earling clarified every construction project in the City has a bond.

Councilmember Petso was convinced a bond should be required, whether it was paid for by the City, the Senior Center or a shared expense.

Councilmember Bloom agreed it should be required for the Senior Center if it is required for all other development. Councilmember Mesaros agreed.

6. *Are there any other concerns with the proposed lease option and ground lease?*

Councilmember Peterson asked when details such as when the building is available for uses other than the Senior Center, who does scheduling, etc. needed to be worked out. He wanted the Senior Center to be able to proceed but envisioned in ten years there may be new ideas regarding how the community center is used by the City; it was difficult to write a contract before the building is constructed and before the amenities are finalized. Ms. Hite suggested there could be an ability to amend the lease in the future. She agreed some specificity is necessary for the option to lease. The building is intended to be a community center and Parks & Recreation will schedule classes and programs. The current Senior Center usage is during the day Monday – Friday 8:00 a.m. to 3:00-4:00

p.m. with rentals on the weekend. She envisioned the City would request use of the facility and programming in the late afternoon until 9:00 p.m. Monday through Thursday. the Frances Anderson Center is totally booked on those nights; additional space would be an asset to the citizens of Edmonds. She will propose that in the lease and it could be amended as necessary in the future.

Councilmember Petso asked whether sample leases could be obtained from similar facilities. Ms. Hite offered to request other cities' leases.

Ms. Hite suggested she confer with the City Attorney, make revisions to the lease using the Council's input, obtain other cities' leases and return to Council in the next few weeks to include discussing the cost of the lease in executive session.

14. DISCUSSION REGARDING CODE OF ETHICS

This item was postponed to a future meeting so that Councilmember Fraley-Monillas could present for the discussion.

15. DISCUSSION OF EDMONDS DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (BID) ISSUES

Economic Development & Community Services Director Patrick Doherty recalled the Council approved the BID's work program and budget on November 18, 2014 and identified 3 key issues for further discussion, 1) assessment rate structure, 2) delinquent payment collections, and 3) BID boundary expansion.

With regard to the assessment rate structure, Mr. Doherty referred to the existing rate structure for open door and by appointment businesses in the agenda packet. He researched 11 other BIDs; the one that is the most similar is Poulsbo in that it uses square footage of the business to determine the assessment rate. Poulsbo's rates are very similar to the BID for businesses under 500 square feet, higher for 500-1000 and substantially lower for large businesses although Poulsbo's cap is substantially higher. In the remainder of the BIDs/BIA's including one being proposed in Ballard, eight in Seattle, and Olympia, the assessment structures vary widely and include square footage, size of property, property owners versus business owners, gross income, number of employees, parking spaces, flat fees and a combination. If the Council wished to pursue revising the assessment structure, 3-4 options could be developed.

Councilmember Mesaros asked how the current rate structure was determined. Mr. Doherty advised it was proposed by the BID proponents, discussed with staff and presented and approved by Council.

Councilmember Petso explained she has meet with a number of people on this issue. She requested Mr. Doherty investigate adjusting the fee structure in the near term to take into account the following objectives: lowering the cost for smaller businesses, lowering the cost for appointment only businesses and perhaps creating an additional discount for businesses not at street grade. She suggested if those objectives could be considered promptly, there may be enough goodwill created to look at more complicated issues such as whether to charge based on number of employees, square foot, property owner, or other creative alternatives that exist. Her near term objective was to demonstrate responsiveness and this might be a way to do that without actually losing a wheel.

Councilmember Bloom expressed support for revising the BID assessment rate structure. In conversations with a lot of people, owners of appointment only and open door businesses, she found a lot of contention and concern about the fees that are levied. First, there are a number of businesses who believe the BID provides them no benefit. The BID's mission was to provide value to everyone, that there would be benefit to all members. That is already not the case. She acknowledged the BID Board was working very

hard and has done a great deal of work. Second, the way the fees are structured essentially penalizes small businesses. For example, a business over 5,000 square feet such as IGA, pays \$600/year; an open door business of up to 500 square feet pays \$360/year, more than half as much as IGA does. In her opinion this was a significant issue. The University District uses a per square foot calculation but has a lower minimum.

Councilmember Bloom relayed another issue related to the things that the BID is paying for that benefit property owners. For example, there was an allocation of over \$600 for Christmas lights on Main Street. She questioned how that provided any benefit other than to those businesses and said it was a benefit to the property owner rather than the businesses because it essentially subsidized the property owners. She recommended including the property owners in a change to the assessment rate structure, commenting the best measure of the value provided by the BID was the increase in property values. Including the property owners in the rate assessment structure would also mean including condominiums. She suggested the fees could be adjusted in a way that would include property owners and lower the fee for other businesses.

Councilmember Peterson disagreed with Councilmembers Bloom and Petso. He recalled an incredible amount of work went into determining the rate structure including review of all the BIDs Mr. Doherty referred to. He has talked to a lot of businesses who are thrilled with the rate structure and what the BID is doing. Any time there is a fee involved, there will be a camp of people who do not want to pay it and others who love it, whether it is federal income tax or a ferry ride. He envisioned if a per square foot price were instituted, larger footprint stores like IGA would be just as furious. He noted Christmas lights were unlikely to increase property values but they add tremendous value to every business throughout the BID especially at this time of the year to businesses and to businesses outside the core. He summarized the assessment structure was well thought out and not everyone would be happy with the fee. He was more than happy to pay the fee and felt the BID benefited the area.

Councilmember Peterson pointed out the BID is very young; if the Council decides to monkey around with their fees, next year the larger stores like IGA will be complaining which will require changing the assessment again. Continually adjusting the rate structure will never allow the BID to do the work they were established to do. He suggested giving the BID time and not micromanaging the fee structure. The BID did a lot of work establishing the rate assessment, the Council approved the rate and the Council should live with it.

Councilmember Mesaros relayed in speaking with one BID member about the fees and the proposal to have property owner pays the assessment instead of businesses, they were not in favor of that proposal because they feared the property owner would increase their lease, possibly even more than the assessment. The business was very supportive of the assessment rate structure, echoing some of Councilmember Peterson's comments that no one likes to pay additional fees but they could see the long term benefit to their business and the City. He spoke with another BID member who has an office on the second floor that pays the higher amount for by appointment business. He was very pleased to be part of the BID and saw the benefits it provided their employees and in attracting employees.

Councilmember Petso commented Councilmember Bloom thinks she did not go far enough and Councilmember Peterson thinks she went way too far. She repeated her suggestion in the hope that the BID Board would not object; she favored lowering the fee for small businesses, lowering the amount changed to appointment only businesses, and providing a small discount for businesses that are not at grade. The rationale for her suggestions was the last packet provided solid evidence that the BID was over-charging small businesses relative to large businesses and there was a sense and possibly fact that a lot of what the BID wants to accomplish would benefit open door businesses versus appointment only businesses. Either a fee reduction or a fee schedule that shifts more of the cost to open door businesses would help start on the path of not having a business community and Council divided on this issue.

For the audience, Councilmember Peterson pointed out there currently is a significant difference in the rate structure between open door businesses and appointment only businesses.

Councilmember Bloom commented what she meant about the Christmas lights was the BID was subsidizing the property owners; the lights should have been the property owners' expense. Ultimately the only way to measure the success of the BID was an increase in property values. She has spoken with numerous businesses; Councilmember Mesaros has spoken to two businesses. Councilmember Mesaros asked for a number. Councilmember Bloom answered probably 30.

Councilmember Peterson commented the intent of the BID is to increase business, not increase property values. Councilmember Bloom said she has not spoken to any appointment only businesses who feel the BID provides any benefit to their business. Councilmember Peterson relayed that he has spoken to a lot. Councilmember Bloom said not only has she talked to numerous business that do not feel there is any benefit to their business, people are really angry about the way this was done. That is another issue that Councilmember Petso is trying to address. The BID is supposed to facilitate cooperation between business owners as well as revitalize the business area which Edmonds doesn't really need. The way the BID was formed, switching from a petition method which did not have signatures of 60% of the businesses to a resolution method even though Ordinance 3909 says there was over 60% created such bad feelings that 21-29 businesses are in collections. Some of them are voluntarily not paying their assessment because they are so upset by the fact they are being assessed; it is a matter of principle to them. In order to address the anger about being assessed without their approval and involvement, the Council needs to look at the assessment.

Councilmember Mesaros commented the BID has elected a group of leaders who are representative of the membership and their meetings are open for all members to attend and provide input. He suggested members talk to the leadership group and the leadership group make recommendations. The Council needs to honor the work done by that group. If a group of businesses do not like the decisions made by the BID Board, they should approach the BID Board, not the Council.

Councilmember Petso relayed her understanding that the Council was responsible for the fee schedule and in changing the fee schedule the Council was not messing with the BID Board. Mr. Taraday responded any modification of the fee schedule requires a public hearing and notice the same as the original fee schedule. Councilmember Petso asked whether the Council had an obligation to ensure there was a relationship between the revenue generated by BID and the programs the BID spend the money on. For example if 100% of the money came from appointment only businesses and the work plan proposed spending 100% of the money on advertising for open door businesses, would the Council be expected to make an adjustment. Mr. Taraday answered the primary obligation of the Council with regard to oversight is to determine that there is special benefit to the assessed businesses. The BID collects a special assessment; there is to be a relationship between the assessment and the benefit.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, TO EXTEND THE MEETING FOR 15 MINUTES. MOTION CARRIED UNANIMOUSLY.

Mr. Taraday clarified he did not want the statement he just made to be interpreted to mean that each single business owner needs to see that benefit for him or herself. The statute does not require that level of precision. In the aggregate, there should be a relationship between the classifications of businesses that are being assessed and the assessment.

Councilmember Mesaros clarified in his previous statement about honoring the recommendations of the BID, he was not intimating that the Council did not have the responsibility to approve or alter that recommendation. When an elected group that represents a body presents a recommendation, it should be

the exception that the Council makes changes versus making changes because some members do not like the decisions that have been made.

Council President Buckshnis commented it was unlikely the Council would reach resolution tonight. This is a small portion of the City's \$93 million budget and there are other, more pressing issues. She suggested conducting a survey using Survey Monkey. She has only heard from three people and everyone else seems satisfied. She summarized it may depend on who a Councilmember talks to.

Councilmember Johnson commented she was an early supporter of the BID and she appreciated their self-governance. She did not expect 100% satisfaction; it appeared there was a 90% satisfaction rate or at least a 90% quiet majority. She encouraged anyone who was dissatisfied to participate directly in the BID process and she encouraged the Council to stay the course long enough to see the benefit of the BID structure. She did not support any changes but encouraged those who were dissatisfied to voice their concerns to the BID Board and for the BID Board to address their concerns.

To Councilmember Mesaros, Councilmember Bloom explained the BID Board did not set the fee schedule. It was recommended by a group of business owners who circulated petitions to present to Council. They did not obtain 60% and the method was changed midstream which was very confusing. To Councilmember Johnson's comment about a 90% quiet majority, Councilmember Bloom explained she has spoken to a lot of people who are afraid to come forward and many who are mad but do not have the time to get involved. Because people are unable/unwilling to come forward did not equate to a 90% quiet majority.

Councilmember Bloom appreciated Council President Buckshnis' suggestion for a survey/poll of the membership. She recommended it be done anonymously by a third party. It was the Council's responsibility to conduct a survey because the 60% approval was not achieved and the BID was formed by resolution. The Council needs to determine if there is 60% approval. She requested Mr. Doherty research a way to do a statistically valid anonymous survey to determine if there is 60% approval.

Councilmember Mesaros said he realized the Board of Directors did not recommend the fee structure. However the current Board has not recommended any changes to the structure and their budget utilized the same assessment structure. Mr. Doherty agreed.

Councilmember Petso commented it is a fairness issue. If organization wants to spend 75% of the assessments on projects that have a larger benefit to open door businesses, then 75% of the assessments should come from those businesses. She hoped the BID Board would discuss and recommend a revision to the assessment rate schedule. Mr. Doherty explained the intent was at some point for a majority of the Council to indicated whether they wanted to reconsider the assessment rate structure.

Council President Buckshnis commented the process took three years and during that time some businesses changed. She accepted the ruling provided by the City Attorney. She suggested an opinion poll via Survey Monkey. She preferred to let the BID go another year before changing the assessment structure. She noted 27 of the over 300 businesses did not pay their assessment.

With regard to the collection policy for delinquent payments, Mr. Doherty explained the current procedure is assessments are billed quarterly. If payment is not received, a 30-day letter is sent. If a business responded in any way, staff works with the business and has worked with businesses for up to a year. If a business does not respond at all, they are eventually sent to collections which is what other cities do. In his opinion not having collections may not be legal and it would undermine the system.

To illustrate the level of disagreement, Councilmember Bloom recalled a conversation with a business that is voluntarily going to collections to make a statement and he is not the only one. She was inclined to

suggest collections be suspended until the matter is resolved but did not feel other Councilmembers would support that.

With regard to expanding/ revising the BID boundary, Mr. Doherty explained this issue was raised by the BID in their work program but Mr. Taraday pointed out it was not an appropriate task for the BID. If the Council was interested in expanding/revising the boundary, a majority of the Council would need to direct staff to proceed. Staff's position is that is not an issue right for the next year. He suggested the following issues be presented to the Council in the future for a vote:

- An assessment study and develop options
- Revisit the collection policy
- Consider revising the boundary
- Options for a survey

Council President Buckshnis agreed with expanding the boundaries particularly with the opening of Salish Crossing. Councilmember Peterson suggested allowing Salish Crossing to get up and running for at least a year.

Councilmember Bloom commented the only way she would support expanding the boundaries would be if the fees were adjusted.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO EXTEND THE MEETING FOR 7½ MINUTES. MOTION CARRIED UNANIMOUSLY.

16. SISTER CITY COMMISSION MATCHING GRANT REQUEST

Economic Development & Community Services Director Patrick Doherty explained the Edmonds Sister City Commission received a \$500 grant from the US Charitable Gift Trust to support activities related to the mission of the Sister City Commission, which is to promote international communication and understanding through exchanges of people, ideas and culture. One of the goals of the Commission for 2015 is to present a series of cultural/educational events at local schools intended to introduce children in the Edmonds community to the Japanese culture. With an additional \$500 from the City Council to match the \$500 provided by the US Charitable Gift Trust, the Sister City Commission will be able to carry out this program.

Councilmember Petso suggested more information be included in the packet in the future such as the grant application to the other agency.

It was the consensus of the Council to schedule this on next week's Consent Agenda.

17. DISCUSSION OF THE DRAFT HOUSING ELEMENT FOR THE 2015 COMPREHENSIVE PLAN UPDATE

This item was postponed to the January 13 meeting.

18. REPORT ON OUTSIDE BOARD AND COMMITTEE MEETINGS

This item was postponed to a future meeting.

19. MAYOR'S COMMENTS

Mayor Earling reminded of the Town Hall meeting tomorrow at Pt. Edwards from 6:30 to 8:30 p.m. He has used the green umbrellas outside City Hal and has head very positive feedback from the community including noticing the several green umbrellas in use at a time.

Mayor Earling reported three candidates for the judge position have been interviewed. He will provide the Council his recommendation next week.

20. COUNCIL COMMENTS

Councilmember Peterson announced his reappointment of Kevin Garrett and John Dewhirst to the Economic Development Commission.

Councilmember Bloom reported the Tree Board has completed their work on the Tree Code. Senior Planner Kernen Lien will present the Code to the Council in the future and then to the Planning Board. She relayed her thanks to the consultant Elizabeth and staff. She reported on an affordable housing symposium she attended where she met John Owens, Makers, who will be doing the development code update.

Councilmember Johnson wished her father, who was born in 1926 and is 88 years old, a Happy Birthday.

Council President Buckshnis relayed Mayor Earling and she are meeting with attorneys and lobbyists about the alternatives study as well as have a meeting scheduled with BNSF. Councilmember Johnson, Mayor Earling and she are also meeting with individual legislators in an effort to clarify how important emergency access and other issues with the train tracks are to Edmonds.

21. CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)

This item was not needed.

22. RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION

This item was not needed.

13. ADJOURN

With no further business, the Council meeting was adjourned at 10:22 p.m.